

Introduced by Senator Baca

February 9, 1999

An act to amend Sections 25658.1 and 25658.4 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 340, as introduced, Baca. Alcoholic beverages: minors: license revocations: off-sale licensees: applications and acknowledgement.

Under existing law, the Department of Alcoholic Beverage Control may revoke a license for a 3rd violation of provisions relating to selling alcoholic beverages to minors within any 36-month period.

This bill would permit that revocation if the licensee was convicted of 2 prior violations.

The Alcoholic Beverage Control Act prohibits a clerk from making a sale of alcoholic beverages unless the clerk executes, under penalty of perjury, on the first day he or she makes that sale, an application and acknowledgement, on a form prepared by the department, that includes at a minimum a summary of certain requirements and prohibitions in the act, as specified.

This bill would additionally require inclusion of specified information as to sale of alcoholic beverages to minors, and would impose a state-mandated local program by requiring any clerk who has executed an application and acknowledgement and is found guilty of selling alcohol to a minor to be subject to a fine and to take a mandatory training

class, as developed by the department, on the contents of the application and acknowledgement.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25658.1 of the Business and
2 Professions Code is amended to read:

3 25658.1. (a) Notwithstanding any other provision of
4 this division, no licensee may petition the department for
5 an offer in compromise pursuant to Section 23095 for a
6 second or any subsequent violation of Section 25658 that
7 occurs within 36 months of the initial violation.

8 (b) Notwithstanding Section 24200, the department
9 may revoke a license for a third violation of Section 25658
10 that occurs within any 36-month period *if the licensee was*
11 *convicted of two prior violations*. This provision shall not
12 be construed to limit the department's authority and
13 discretion to revoke a license prior to a third violation
14 when the circumstances warrant that penalty.

15 SEC. 2. Section 25658.4 of the Business and
16 Professions Code is amended to read:

17 25658.4. (a) On and after January 1, 1992, no clerk
18 shall make an off sale of alcoholic beverages unless the
19 clerk executes under penalty of perjury on the first day
20 he or she makes that sale an application and
21 acknowledgment. The application and acknowledgment
22 shall be in a form understandable to the clerk.

23 (1) The department shall specify the form of the
24 application and acknowledgment which shall include at
25 a minimum a summary of this division pertaining to the
26 following:

1 (A) The prohibitions contained in Sections 25658 and
2 25658.5 pertaining to the sale to, and purchase of,
3 alcoholic beverages by persons under 21 years of age.

4 (B) Bona fide evidence of majority as provided in
5 Section 25660.

6 (C) Hours of operation as provided in Article 2
7 (commencing with Section 25630) of Chapter 16.

8 (D) The prohibitions contained in subdivision (a) of
9 Section 25602 and Section 25602.1 pertaining to sales to an
10 intoxicated person.

11 (E) Sections 23393 and 23394 as they pertain to
12 on-premises consumption of alcoholic beverages in an
13 off-sale premises.

14 (F) The requirements and prohibitions contained in
15 Section 25659.5 pertaining to sales of keg beer for
16 consumption off licensed premises.

17 *(G) The requirement that the clerk executes an*
18 *application and acknowledgement indicates that he or*
19 *she knows it is illegal to sell any alcoholic beverage to a*
20 *minor; and that if he or she makes the sale, he or she is*
21 *subject to a monetary fine and must participate in a*
22 *training class which reviews the contents of the*
23 *acknowledgement.*

24 (2) The application and acknowledgment shall also
25 include a statement that the clerk has read and
26 understands the summary, a statement that the clerk has
27 never been convicted of violating this division or, if
28 convicted, an explanation of the circumstances of each
29 conviction, and a statement that the application and
30 acknowledgment is executed under penalty of perjury.

31 *(A) Any clerk who has executed an application and*
32 *acknowledgement and is found guilty of selling alcohol to*
33 *a minor is subject to a fine of up to ____ dollars*
34 *(\$____) and shall be required to take a mandatory*
35 *training class on the contents of the application and*
36 *acknowledgement. This training can be in the form of a*
37 *video training conducted by the department. The*
38 *training shall also have a test which the violator shall pass*
39 *prior to resuming the sale of alcohol.*

1 (B) *The department shall develop a training program*
2 *and test to be used for any violator of the sections*
3 *contained within this division.*

4 (3) The licensee shall keep the executed application
5 and acknowledgment on the premises at all times and
6 available for inspection by the department. A licensee
7 with more than one licensed off-sale premises in the state
8 may comply with this subdivision by maintaining an
9 executed application and acknowledgment at a
10 designated licensed premises, regional office, or
11 headquarters office in the state. An executed application
12 and acknowledgment maintained at the designated
13 locations shall be valid for all licensed off-sale premises
14 owned by the licensee. Any licensee maintaining an
15 application and acknowledgment at a designated site
16 other than the individual licensed off-sale premises shall
17 notify the department in advance and in writing of the
18 site where the application and acknowledgment shall be
19 maintained and available for inspection. A licensee
20 electing to maintain application and acknowledgments at
21 a designated site other than the licensed premises shall
22 maintain at each licensed premises a notice of where the
23 executed application and acknowledgments are located.
24 Any licensee with more than one licensed off-sale
25 premises who elects to maintain the application and
26 acknowledgments at a designated site other than each
27 licensed premises shall provide the department, upon
28 written demand, a copy of any employee's executed
29 application and acknowledgment within 10 business days.
30 A violation of this subdivision by a licensee constitutes
31 grounds for discipline by the department.

32 (b) On and after January 1, 1992, the licensee shall post
33 a notice that contains and describes, in concise terms,
34 prohibited sales of alcoholic beverages, a statement that
35 the off-sale seller will refuse to make a sale if the seller
36 reasonably suspects that the Alcoholic Beverage Control
37 Act may be violated, and a statement that a minor who
38 purchases or attempts to purchase alcoholic beverages is
39 subject to suspension or delay in the issuance of his or her
40 driver's license pursuant to Section 13202.5 of the Vehicle

1 Code. The notice shall be posted at an entrance or at a
2 point of sale in the licensed premises or in any other
3 location that is visible to purchasers of alcoholic
4 beverages and to the off-sale seller.

5 (c) On and after January 1, 1998, a retail licensee shall
6 post a notice that contains and describes, in concise terms,
7 the fines and penalties for any violation of Section 25658,
8 relating to the sale of alcoholic beverages to, or the
9 purchase of alcoholic beverages by, any person under the
10 age of 21 years.

11 (d) As used in this section:

12 (1) "Off-sale seller" means any person holding a retail
13 off-sale license issued by the department and any person
14 employed by that licensee who in the course of that
15 employment sells alcoholic beverages.

16 (2) "Clerk" means an off-sale seller who is not a
17 licensee.

18 (e) The department may adopt rules and appropriate
19 fees for licensees that it determines necessary for the
20 administration of this section.

21 SEC. 3. No reimbursement is required by this act
22 pursuant to Section 6 of Article XIII B of the California
23 Constitution because the only costs that may be incurred
24 by a local agency or school district will be incurred
25 because this act creates a new crime or infraction,
26 eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section
28 17556 of the Government Code, or changes the definition
29 of a crime within the meaning of Section 6 of Article
30 XIII B of the California Constitution.

